

**MINUTES OF THE  
CITY PLANNING COMMISSION  
SEPTEMBER 15, 2006  
J. MARTIN GRIESEL CONFERENCE ROOM  
TWO CENTENNIAL PLAZA – SUITE 700  
805 CENTRAL AVENUE**

**CALL TO ORDER**

Mr. Faux called the meeting to order at 9:08 a.m.

**Commission Members:**

***Present:*** Caleb Faux, James Tarbell, Donald Mooney, and Rainer vom Hofe

**Community Development and Planning Staff:** Margaret Wuerstle, Bonnie Holman, Rodney Ringer, Adrienne Cowden, Steve Briggs and Jennifer Walke

**Law Department:**

Julia Carney

**APPROVAL OF MINUTES**

It was explained that the minutes for the September 1, 2006 meeting would be presented at the October 6, 2006 meeting.

**CONSENT ITEMS**

- ITEM #1**      A report and recommendation on the lease of office space at the Two Centennial Building.
- ITEM #2**      A report and recommendation on the sale of surplus City-owned real property located at 312 Mulberry Street to Citadel Building Group, Ltd.
- ITEM #3**      A report and recommendation authorizing grant of easements for erecting two canopies in favor of Port Authority Property.
- ITEM #4**      A report and recommendation on the sale of aerial easements over Ogden Place.
- ITEM #5**      A report and recommendation on a plat subdivision for the Galleries of Pendleton located west of Dandridge Street in the community of Pendleton.
- ITEM #5A**     A report and recommendation on the conveyance of real property located on the south side of Pete Rose Way from Montgomery Inn, Inc. to the City of Cincinnati as a part of the plan for the development of the One River Plaza project.

**Motion:** Mr. Mooney moved approval of Consent Items #1-5A.  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe  
**Nays:** None, **motion carried**

## **DISCUSSION ITEMS**

**ITEM #6** A report on actions to take with regard to a zone change request for property located at 5785 Colerain Avenue.

### **SUBJECT:**

A report on actions to take with regard to a zone change request for property located at 5785 Colerain Avenue.

### **PURPOSE:**

To gather feedback on the direction staff should take regarding the rezoning of the above-mentioned property.

### **BACKGROUND:**

The property located at 5785 Colerain Avenue was previously zoned as an O-1 Suburban High-Density Office District and B-2 General Business District prior to the adoption of the current zoning code. The current zoning for the property is CC-A Commercial Community –Auto District. When the current zoning was being developed the CC-A District was mistakenly applied to the old O-1 portion of the site.

This area has been a concern of the neighborhood since the adoption of the current zoning code, with the CC-A District and the uses this district allows such as Eating and Drinking Establishments, Food Markets, Maintenance and Repair Services, Fuel Sales and Vehicle and Equipment Sales and Rental. The focus of the zoning study request is for the property located at 5785 Colerain Avenue. However, there may be the potential to study the other CC-A District properties adjacent to 5785 Colerain Avenue, to ensure that the appropriate zoning is applied to the entire area.

### **RECOMMENDATIONS:**

The staff of the Department of Community Development and Planning recommended that the City Planning Commission direct staff to initiate a zone change study for the property located 5758 Colerain Avenue in the Community of Mt. Airy.

## **DISCUSSION**

*Mr. Rodney Ringer, Senior Planner, presented this item.*

Mr. Ringer gave an overview of the zoning issues related to the property located at 5785 Colerain Avenue. He stated that this area has been a concern of the neighborhood and staff recommends a zone change study.

**Motion:** Mr. Mooney moved approval of Item #6  
**Second:** Mr. vom Hofe

**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe  
**Nays:** None, **motion carried**

**ITEM #7** A report and recommendation on a zone change for 6104-6118 Kellogg Avenue and 218 Two Mile Road from PD-2 to SF-20 and CG-A located in the community of California.

**GENERAL INFORMATION:**

**Location:** 6104-6118 Kellogg Avenue and 218 Two Mile Road (map attached)

**Owner:**

*AJ Mac Inc.*  
6735 Kellogg Avenue  
Cincinnati, Ohio 45230

**Owner:**

*State of Ohio*  
505 S. State Route 741  
Lebanon, Ohio 45036

**Petitioner:**

*City of Cincinnati*

**Purpose:**

To apply a zoning designation to the property prior to the expiration of the existing zoning (Planned Development District #2) in February 2007.

**BACKGROUND:**

Prior to the adoption of the new code in 2004, the subject property was zoned R-4 (T), a residential transitional zone that permitted office, commercial, hotel/motel, service station and residential uses. Planned Development District No. 2 (PD-2) was established with the adoption of the Zoning Code in 2004 to reflect the proposed development; however no permits were ever issued for this project. Since construction was not diligently pursued, pursuant to Section 1429-19 of the Zoning Code the PD zoning designation will expire two years after formed, in February 2007. The property is currently for sale.

After conducting a zoning study of the site, staff is proposing that the SF-20 (Single Family) and CG-A (Commercial General- Auto oriented) are appropriate zoning designations because they are compatible with the adjacent zoning.

**EXISTING CONDITIONS:**

**Adjacent Land Use and Zoning:**

**North:** SF-20

**East:** SF-20 and CG-A, truck parking/storage

**South:** RF-R, Coney Island

**West:** SF-20

**Existing Plans:**

There are no current/active plans for the California community, however, the California Land Development Use Plan (1978) states that the preferred uses for the site are auto-oriented.

**PUBLIC COMMENT:**

Department of Community Development and Planning staff conducted a public conference on this zone change request on June 15, 2006. Hugh Brandt, a representative of Coney Island, was in attendance. City Staff in attendance were Jennifer Walke, City Planner, and Margaret

Donohue, Intern. Mr. Brandt had no objections to the zone change, but did note that the parcel would be difficult to develop due to location and geography.

The owner of the property was contacted by mail multiple times. Staff attempted to contact the owner by phone; however, no number was listed. The selling agent of the property was also contacted on several occasions via phone and emails were sent on July 24, 2006 and August 3, 2006. Neither the property owner nor the selling agent responded to requests for comment.

No comment was received from the California Community Council.

#### **ANALYSIS OF PROPOSED CHANGE:**

The subject area is located adjacent to the I-275 northbound entrance ramp on the west and north, single-family structures and a parking/storage lot, which runs along Kellogg Avenue on the east. Single-family residences with SF-20 zoning currently exist within the boundary of what the California Land Development Use Plan (1978) recommended for auto-oriented uses. Rezoning the entire subject areas to accommodate auto-oriented uses may negatively affect the adjacent single-family residences. However, auto-oriented uses are appropriate for the portion of the site adjacent to Kellogg Avenue and its intersection with the I-275 ramps due to the heavy volume of traffic.

#### **CONCLUSION:**

1. The PD zoning designation will expire in February 2007.
2. The proposed zoning is compatible with adjacent zoning.
3. The proposed zoning is compatible with surrounding land uses.

#### **RECOMMENDATION:**

Department of Community Development and Planning staff recommended that City Planning Commission take the following actions:

**APPROVE** the zone change for 6104-6118 Kellogg Avenue and 218 Two Mile Road from PD-2 to SF-20 and CG-A located in the community of California.

#### **DISCUSSION**

*Jennifer Walke, Senior Planner, presented this item.*

Ms. Walke gave an overview of the history of the property located at 6104-6118 Kellogg Avenue and 218 Two Mile Road.

<b>Motion:</b>	Mr. Mooney moved approval of Item #7
<b>Second:</b>	Mr. vom Hofe
<b>Ayes:</b>	Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe
<b>Nays:</b>	None, <b>motion carried</b>

**ITEM #8** A report and recommendation on a proposed zone change for 1657, 1659, 1663, 1665, and 1667 State Avenue in the Lower Price Hill neighborhood from Manufacturing General (MG) to Residential Multi-Family (RM-1.2).

## **BACKGROUND**

David Thompson, representing Model Property Development (Model) submitted a petition to the Department of Community Development & Planning to rezone property at 1657, 1659, 1663, 1665 and 1667 State Avenue in Lower Price Hill from Manufacturing General (MG) to Residential Multi-Family (RM-1.2). Model has a purchase option on the subject property and is seeking a zone change prior to closing. The organization intends to develop five single-family residences on the subject property; however, this use is not permitted under the current MG zoning.

Construction of the five residences represents the final phase of a Lower Price Hill revitalization plan undertaken by Model that has included 81 rehabilitated low-income rental housing units, the renovation of Radel Hall into a 25,000 square foot mixed-use business center, the development of a community park from a vacant lot, and five owner-occupied houses. In addition, Model created and fully funded a \$59,000 individual development account that is administered by the Home Ownership Center and is used to assist Lower Price Hill residents with down payments.

### **Conditions / Use**

The property at 1657, 1659, 1663, 1665 and 1667 State Avenue is currently vacant. A c. 1870 brick two-family residence once stood at 1665-1667 State Avenue. An identical multi-family residence still stands on the adjacent property to the east at 1669-1671 State Avenue. Shown in dilapidated condition on the Hamilton County Auditor's website, 1665-1667 State Avenue was demolished after 2001 (see Figure 4). A 20<sup>th</sup> century cinderblock garage occupied the lot at 1663 State Avenue; this building was demolished after 2001. The remaining lots at 1657 and 1659 State Avenue have been vacant since at least 1922 (*Sanborn Fire Insurance Map*, 1922).



Figure 1: View of 1657 and 1659 State Avenue, Facing NW



Figure 2: View of 1659, 1663, 1665 and 1667 State Avenue, Facing NW



Figure 3: View of 1665-1667 State Avenue and Adjacent Properties to the North, Facing NW



Figure 4: Brick two-family residence at 1665-1667 State Avenue *demolished*

## **Plans**

A single plan, the 1978 *Price Hill Community Plan*, encompasses the State Street properties, and the recommendations outlined in this document are still relevant. The plan recommended a change in zoning for the west side of State Avenue to prohibit industrial encroachment into this area. Any industrial expansion was to take place east of State Avenue and north of Lehman Road. The plan also places 1657, 1659, 1663, 1665 and 1667 State Avenue within a potential growth area for new residential construction.

## **Community Response**

Staff held a conference on Thursday, August 31, 2006. Rod Gibbons (Whitton Container, Inc.) and David Thompson (Model) attended the meeting. Staff has received letters of support for the proposed zone change from Bob Rainey, President of the Lower Price Hill Community Council, Colleen Healey, Santa Maria Community Services, Patti Bellamo (728 State Avenue), and Steven L. Driehaus, Minority Whip of the Ohio House of Representatives.

No other interested parties, community organizations or adjacent property owners have contacted staff about the application.

## **DISCUSSION**

Based on a study of the area, the requested RM-1.2 zoning is appropriate for the property at 1657, 1659, 1663, 1665 and 1667 State Avenue. The land, which is currently vacant and underutilized, is located directly adjacent to an RM-1.2 Zoning District to the west and north. Nearby properties on the west side of State Avenue include single- and multi-family homes, and at least two of the properties – 1665 and 1667 State Avenue – were historically residential in use. The five residences proposed by Model will introduce new single-family residential development that will further the neighborhood's revitalization.

Lower Price Hill Community Council, Santa Maria Services and others strongly support the zone change request and the residential development it will permit.

## **RECOMMENDATION:**

The staff of the Department of Community Development & Planning recommended that the City Planning Commission take the following action:

Approve a zone change for 1657, 1659, 1663, 1665 and 1667 State Avenue in the Lower Price Hill neighborhood from Manufacturing General (MG) to Residential Multi-Family (RM-1.2).

## **DISCUSSION**

*Adrienne Cowden, Senior Planner, presented this item.*

Ms. Cowden gave a brief overview of the zone change request and proposal to build five single-family homes. The construction would represent the final phase of a Lower Price Hill revitalization plan undertaken by Model Property Development that has included 81 rehabilitated low-income rental housing units, the renovation of Radel Hall into a 25,000 square foot mixed-use business center, the development of a community park from a vacant lot, and five owner-

occupied houses. She also stated the Lower Price Hill Community Council strongly supports this proposal.

Mr. David Thompson, of Model Property Development, stated the homes would be affordable to 80% of area residents. They would have 3 bedrooms, 1-½ bathrooms and a full basement. The developer works with the Home Ownership Center to assist homebuyers.

**Motion:** Mr. Mooney moved approval of Item #8  
**Second:** Mr. vom Hofe  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe  
**Nays:** None, **motion carried**

### **OTHER BUSINESS**

**ITEM #9** Request by Keating Ritchie, A Legal Professional Association, representing Ms. Janice Willis, for the Planning Commission to direct Planning Staff to do a Zoning Code study.

*The correspondence from Keating Ritchie is attached at the end of the minutes as Exhibit A – Item #9.*

### **DISCUSSION**

*Ms. Margaret Wuerstle, Chief Planner, presented this item.*

Ms. Wuerstle provided background information regarding the child day care issue. Currently, child day care homes/centers caring for over six children are considered a commercial use and must operate in a commercial district according to the City's Zoning Code. This does not coincide with the state definition, which allows child day care homes to care for up to 12 children.

Mr. Warren Ritchie, of Keating Ritchie, stated he is representing Ms. Janice Willis, the owner of a child day care center. Ms. Willis is interested in expanding her day care center into a vacant building located at the intersection of Fulton Avenue. Mr. Ritchie stated he is requesting the Planning Commission to authorize a study of the zoning code in regards to child day care centers to determine if day care centers could be permitted as a conditional use in the RMX and RM Zoning Districts.

Ms. Wuerstle stated there is also a need to study appropriate use of non-conforming structures that are located in residential zones. The building Ms. Willis would like to use, as a child day care center is an example of an existing non-conforming structure in a residential district that is not appropriate for a residential use. Ms. Wuerstle explained that there were a few issues that needed to be studied. One is the issue of day cares with one to twelve children in residential districts. Another is the issue of possibly allowing day care centers in multi-family zoning districts as a conditional use. The third issue is to find a solution for non-conforming structures in residential districts. For instance, mixed-use structures in residential districts which were built with a commercial use on the first floor and residential on the top floors. Our code doesn't allow



re-use of the commercial space without rezoning of the property. The Commission had a request at the September 1, 2006 meeting for a free rezone study for a property on Eastern Avenue because the commercial portion of the structure could no longer be used for commercial purposes. The planning staff is receiving many inquiries on these types of properties. The only options available currently are rezones in some situations or not withstanding ordinances.

**Motion:** Mr. Mooney moved that staff study the full issue including the day care issue, the number of children in the day care issue, the districts in which day cares are permitted, the non-conforming structures in residential zone issue and the reuse of non-conforming mixed use structures issue.

**Second:** Mr. vom Hofe

**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe

**Nays:** None, **motion carried**

### **OTHER BUSINESS**

Mr. Carl Uebelacker, Communication Secretary for the Hyde Park Community Council, stated his Council strongly objected to the action on September 1, 2006, by the City Planning Commission Chairman to not allow community members to address the Planning Commission regarding the proposed Outdoor Eating and Drinking text amendment. He stated that the two new members of the Planning Commission had not heard past testimony from community members. In addition he stated the changes were significant and should be discussed. Mr. Uebelacker requested reconsideration of this issue.

Mr. Tarbell stated that there had been significant debate on this issue. He said he felt the City Council would have voted on a much worse version of this text amendment if this compromise were not made. He explained that he would not support reconsideration of the issue.

Mr. Mooney stated that if the two new members of the Planning Commission felt they did not have enough information to cast their votes they could have asked for testimony. He said that under the circumstances, he did not feel the chairman had breached anyone's right to free expression.

Mr. Uebelacker stated that he felt that the Planning Commission's own policies were clearly violated. He went on to say that it was unfair to the people who sat there for 1-½ hours waiting to speak.

Mr. Faux stated that if the two new members had requested additional testimony, he would have allowed that to happen. This issue had received extensive discussion in past meetings and this was the same issue and same subject. It was continuation of the discussion that was on the table several times. Mr. Faux asked for a motion to reconsider this item.

There was no motion by a Planning Commission member for reconsideration. Mr. Uebelacker requested that his letter be included in the minutes and records of the Planning Commission. Mr.

Faux directed Ms. Werstle to include the correspondence in the record. The letter submitted by Mr. Uebelacker is attached at the end of the minutes as exhibit B.

**ADJOURN**

**Motion:** Mr. Tarbell moved to adjourn  
**Second:** Mr. Mooney  
**Ayes:** Mr. Faux, Mr. Tarbell, Mr. Mooney and Mr. vom Hofe  
**Nays:** None, **motion carried**

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Margaret A. Wuerstle, AICP  
Chief Planner

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Caleb Faux, Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_